IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.61 OF 2005 IN C.P.NO.166 OF 2002

Mr.H.C. Gupta. ..Applicant.
Vs.
M/s. Modistone Ltd. ..Respondent.

Ms. Manisha Veerkhare i/by Bhavesh Parmar for the Applicant.

Ms. K.V. Gautam, Dy. O.L. present.

CORAM : R.S. MOHITE, J.
DATED : 09.11.2006.

P.C.

1. This is a company application for an order directing the Official Liquidator to handover the possession of the premises located at Showroom No.43, Sector 26, Chandigarh, Union Territory of India, directing the Official Liquidator to deposit unpaid rent from 15/12/1997 to 14/8/2004 and also to make forthwith payment of regular rent at the prevailing market rate of Rs.70,000/-p.m.

2. It appears from the papers that the Official Liquidator was appointed under an order dated 25.7.2002 and the Official Liquidator put his seal on the premises of the company on 9.7.2003. The applicant who claimed to be the landlord of the premises, in the mean while, filed a suit for eviction of the company and it appears

that the said suit was decreed in Nov.2005. The possession was taken by the bailiff of the Chandigarh Court sometime in March,2006. The present application had come up for hearing before this court on 27.7.2006. In pursuance of the order passed by this court, the Official Liquidator submitted his reports dated 8.11.2006 and 11.8.2006. This court has recorded no objection from the applicant's Advocate to break open the premises after taking reinventory of the articles therein and resealing. A further statement was made by the Advocate for the applicant that on inventory being completed, the applicant would take appropriate steps in filing the suit in the Court of Civil Judge, S.D., Chandigarh. The Company Application was thereafter, adjourned from time to time. From the aforesaid facts, it is clear that the applicant has misled the court in believing that the said suit was pending on 11.8.2006. However. the said suit was already decreed and the possession has been taken by the bailiff by breaking open the seal of the Official Liquidator without any notice to the Official Liquidator. In such circumstances, it appears that the possession of the premises in possession of the Official Liquidator has been wrongfully taken. In the circumstances, I am not inclined to entertain this application and the application is dismissed.

3. The Official Liquidator is at liberty to take back the possession of the premises and reseal the same. The Official Liquidator will also be at liberty to take inventory of the articles which are said to be dumped by the bailiff, if the said articles are available. Application is disposed off.

(R. S. MOHITE, J.)